

Important Addresses and Phone Numbers

Office of Revenue and Recovery

Probation Department

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Restitution Responsibilities in California

A brochure for adult offenders prepared by the

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What is Restitution?

In 1982, the people of the State of California voted for and passed the Victims Bill of Rights (Article 1, Section 28 of the California Constitution). The Constitution says that restitution must be ordered in every case where a person is convicted and a victim suffers a loss.

Restitution pays a victim back for the damages, injuries, and costs caused by the defendant's criminal conduct. The court orders an offender to pay his/her restitution at sentencing.

Restitution is part of an offender's criminal punishment and is meant to hold each offender responsible for his/her actions. Paying a victim back for their losses is also part of the offender's rehabilitation.

res-ti-tu-tion - An act of restoring or a condition of being restored: as a) a restoration of something to its rightful owner, b) a making good of or giving an equivalent for some injury



Restitution Orders

(Penal Code § 1202.4(f), *et seq.*)

Generally, when a victim has losses because of a crime, the court has to order the offender to pay restitution to the victim. The amount of the restitution should be a total of all the losses the victim has incurred. If the total amount of the victim's losses is not known by the time of the sentencing hearing, the court will order the amount to be set at a later date.

If restitution is ordered, the offender has the right to ask for a hearing before the court to dispute the amount of the victim's losses.

In most cases, the court must order restitution in the full amount of the victim's losses unless it finds "compelling and extraordinary" reasons not to do so. The reasons have to be stated on the court record. The order cannot be waived simply because the offender does not have the money to pay.

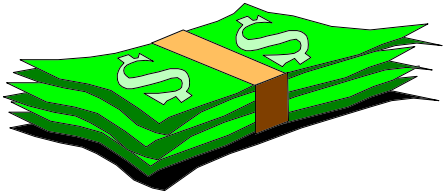


Restitution Fines

(Penal Code § 1202.4(b), *et seq.*)

Under state law, the court must order a criminal offender to pay a restitution fine in every case. The amount of the fines is set by the court and should match with the seriousness of the crime.

- ♦ Felony convictions – at least \$200 and not more than \$10,000.
- ♦ Misdemeanor convictions – at least \$100 and not more than \$1,000.



The court has to order at least the minimum restitution fine unless it finds “compelling and extraordinary” reasons not to do so. The reasons have to be stated on the court record. The fine cannot be waived because the offender does not have the money to pay.

When imposing a fine for more than the minimum amount, the court must consider how serious the crime was, how many victims were involved, the victims’ losses, and if the offender has the money to pay (this includes what the offender will earn in the future).

Who benefits from Restitution?

Restitution Orders

Monies collected from restitution orders are given directly to the victim, except when the Victims of Crime (VOC) Program has already paid for the victim’s losses. If the VOC Program has paid for the losses, then the money is returned to the VOC Program.

Restitution Fines

The money collected from restitution fines is put into the Restitution Fund to pay for the VOC Program. The VOC Program provides benefits to victims of violent crime and pays for certain out-of-pocket expenses that the victim suffered because of a violent crime

Benefit Types Include:

- Medical Expenses
- Mental Health Counseling Expenses
- Wage Loss/Support Loss
- Funeral/Burial Expenses
- Vocational Rehabilitation Expenses

IMPORTANT REMINDER

If you make payments toward your restitution, please keep all of your receipts for future reference.

Payment Options

How do I pay my restitution?

Restitution fines and orders are ordered by the judge at the sentencing hearing.

If you are placed on Probation or sent to County Jail:

Under normal circumstances, you will either make payment arrangements with your probation officer or the court will determine your payment amounts as a part of the court order. Payments are usually made to the Probation Office, the Court Collections Unit or the County’s Office of Revenue and Recovery.

If you are sentenced to State Prison:

You will need to make payment arrangements through your Correctional Counselor at the institution or the Department of Corrections, Office of Victim Services and Restitution. If you do not voluntarily pay your restitution, the Department of Corrections can legally take 20% of deposits to your trust account or garnish 20% of earned prison wages to pay for court ordered restitution. Restitution orders are collected and paid first then restitution fines.

If you are currently on parole and want to move out of state:

Generally, offenders have to pay all outstanding restitution fines and orders before they are allowed to leave the state. You can make voluntary payment arrangements through the California Department of Corrections, Office of Victim Services and Restitution.

Consequences

What happens if I don’t pay?

If you are placed on probation, the payment of restitution fines and orders that was ordered by the judge will be made a term of your probation and can be enforced in the following ways:

- ♦ If you do not make your payments for restitution, it may be a violation of the terms and conditions of probation.
- ♦ If there is an outstanding balance at the end of your probation, the balance can be collected as a civil judgment.

Restitution fines and orders are enforceable as a civil judgment.

- ♦ If you do not pay your restitution fine, the State Board of Control will use aggressive collection procedures, including taking your tax refunds.
- ♦ If you do not pay your restitution order to your victims, they can enforce that order as a civil judgment. Victims can then garnish your wages, place liens on your property, levy bank accounts, etc.

Restitution fines and orders have an infinite life and can be pursued until they are paid in full.

